

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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WILLIAM C. DUFFELMEYER, MICHAEL
WALTHER, STEVEN HEISLER, JEFF NARDI,
STEPHEN M. CARPINIELLO, EDWARD ARCE,
RALPH TANCREDI, PETER DeVITTORIO,
MICHAEL MARINELLI and ARTHUR MARINELLI,

ANSWER

07 Civ. 2807 (KMK) (MDF)

Plaintiffs,

-against-

LAWRENCE MARSHALL, individually, DAVID
HALL, individually, and the TOWN/VILLAGE OF
HARRISON, New York,

Defendants.

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Defendants Lawrence Marshall, David Hall, and the Town/Village of Harrison, New York, by and through their attorneys, Bond, Schoeneck & King, PLLC, hereby appear and answer the Complaint as follows:

1. DENY knowledge or information sufficient to form a belief as to the truth or falsity of allegations set forth in Paragraph 1 of the Complaint except admit that Plaintiffs purport to bring claims under 42 U.S.C. § 1983.

2. DENY knowledge or information sufficient to form a belief as to the truth or falsity of the allegations set forth in Paragraph 2 of the Complaint and respectfully refer all questions of law to the Court.

3. DENY knowledge or information sufficient to form a belief as to the truth or falsity of the allegations set forth in Paragraph 3 of the Complaint, except ADMIT that Plaintiffs William C. Duffelmeyer, Michael Walther, Steven Heisler, Jeff Nardi, Edward Arce, Ralph Tancredi, Peter DeVittorio, Michael Marinelli and Arthur Marinelli are each employed by the Town as

sworn members of the Harrison Police Department, and DENY that Plaintiff Stephen M. Carpiello is employed as a sworn member of the Harrison Police Department.

4. DENY knowledge or information sufficient to form a belief as to the truth or falsity of the allegations set forth in Paragraph 4 except ADMIT that Defendant Marshall is a lieutenant in the Town/Village of Harrison Police Department.

5. DENY knowledge or information sufficient to form a belief as to the truth or falsity of the allegations set forth in Paragraph 5 except that Defendant Hall is the Chief of Police of the Town/Village of Harrison Police Department.

6. ADMIT the truth of the allegations set forth in Paragraph 6 of the Complaint.

7. DENY the truth of the allegations set forth in Paragraph 7 of the Complaint, except ADMIT that Captain Anthony Marraccini received the letter dated March 28, 2007 and signed by the Plaintiffs that is annexed to the Complaint and respectfully refers the Court to the March 28, 2007 letter for its full meaning and content.

8. DENY the truth of the allegations set forth in Paragraph 8 of the Complaint.

9. DENY the truth of the allegations set forth in Paragraph 9 of the Complaint, except ADMIT that Plaintiffs were advised that they should not discuss the allegations raised in their March 28, 2007 letter with others while the Harrison Police Department's investigation into those allegations was still pending.

10. DENY the truth of the allegations set forth in Paragraph 10 of the Complaint, except ADMIT that the Westchester County District Attorney's Office conducted a comprehensive investigation into the allegations Plaintiffs raised in their March 28, 2007 letter and that Defendant Hall was completely exonerated of having engaged in any criminal conduct.

11. DENY the truth of the allegations set forth in Paragraph 11 of the Complaint.

12. DENY the truth of the allegations set forth in Paragraph 12 of the Complaint.

13. DENY the truth of the allegations set forth in the first numbered Paragraph 13 of the Complaint.

14. In answer to the allegations repeated and re-alleged at the second numbered Paragraph 13 of the Complaint, Defendants repeat and reassert as if fully set forth their answers to Paragraphs 1 through the first numbered Paragraph 13, inclusive, of the Complaint.

15. DENY the truth of the allegations set forth in Paragraph 14 of the Complaint.

AS AND FOR A FIRST AFFIRMATIVE DEFENSE

16. The Complaint fails to state a claim upon which relief can be granted.

AS AND FOR A SECOND AFFIRMATIVE DEFENSE

17. Plaintiffs have failed to plead or identify any municipal policy, custom, or practice that caused a violation of Plaintiffs' federal rights.

AS AND FOR A THIRD AFFIRMATIVE DEFENSE

18. Defendant Hall is protected by the privilege of qualified immunity.

AS AND FOR A FOURTH AFFIRMATIVE DEFENSE

19. Defendant Marshall is protected by the privilege of qualified immunity.

AS AND FOR A FIFTH AFFIRMATIVE DEFENSE

20. Plaintiffs have failed to make reasonable efforts to mitigate their damages.

Defendants reserve the right to amend or further plead any other defenses after a reasonable opportunity for discovery.

WHEREFORE, Defendants Lawrence Marshall, David Hall, and the Town/Village of Harrison, request that judgment be rendered against Plaintiffs dismissing this action in its

entirety as against them and awarding them costs, disbursements and such other and further relief as the Court deems to be appropriate.

Dated: Garden City, New York
April 7, 2008

Respectfully submitted,

BOND, SCHOENECK & KING, PLLC

By: s/ Mark N. Reinharz
Mark N. Reinharz (MNR 6201)
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CERTIFICATE OF SERVICE

I hereby certify that on April 7, 2008 the foregoing document was filed with the Clerk of the Court and served in accordance with the Federal Rules of Civil Procedure, and/or the Southern District's Local Rules, and/or the Southern District's Rules on Electronic Service upon the following parties and participants:

LOVETT & GOULD, LLP
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